

SB 259-2— Filed 02/23/2006, 11:35 Aguilera

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 259 be amended to read as follows:

- 1 Page 2, between lines 6 and 7, begin a new paragraph and insert:
- 2 "SECTION 3. IC 6-3-1-3.5, AS AMENDED BY P.L.246-2005,
- 3 SECTION 69, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]; Sec. 3.5. When
- 5 used in this article, the term "adjusted gross income" shall mean the
- 6 following:
- 7 (a) In the case of all individuals, "adjusted gross income" (as defined
- 8 in Section 62 of the Internal Revenue Code), modified as follows:
- 9 (1) Subtract income that is exempt from taxation under this article
- 10 by the Constitution and statutes of the United States.
- 11 (2) Add an amount equal to any deduction or deductions allowed
- 12 or allowable pursuant to Section 62 of the Internal Revenue Code
- 13 for taxes based on or measured by income and levied at the state
- 14 level by any state of the United States.
- 15 (3) Subtract one thousand dollars (\$1,000), or in the case of a joint
- 16 return filed by a husband and wife, subtract for each spouse one
- 17 thousand dollars (\$1,000).
- 18 (4) Subtract one thousand dollars (\$1,000) for:
- 19 (A) each of the exemptions provided by Section 151(c) of the
- 20 Internal Revenue Code;
- 21 (B) each additional amount allowable under Section 63(f) of

- 1 the Internal Revenue Code; and
- 2 (C) the spouse of the taxpayer if a separate return is made by
- 3 the taxpayer and if the spouse, for the calendar year in which
- 4 the taxable year of the taxpayer begins, has no gross income
- 5 and is not the dependent of another taxpayer.
- 6 (5) Subtract:
- 7 (A) one thousand five hundred dollars (\$1,500) for each of the
- 8 exemptions allowed under Section 151(c)(1)(B) of the Internal
- 9 Revenue Code for taxable years beginning after December 31,
- 10 1996; and
- 11 (B) five hundred dollars (\$500) for each additional amount
- 12 allowable under Section 63(f)(1) of the Internal Revenue Code
- 13 if the adjusted gross income of the taxpayer, or the taxpayer
- 14 and the taxpayer's spouse in the case of a joint return, is less
- 15 than forty thousand dollars (\$40,000).
- 16 This amount is in addition to the amount subtracted under
- 17 subdivision (4).
- 18 (6) Subtract an amount equal to the lesser of:
- 19 (A) that part of the individual's adjusted gross income (as
- 20 defined in Section 62 of the Internal Revenue Code) for that
- 21 taxable year that is subject to a tax that is imposed by a
- 22 political subdivision of another state and that is imposed on or
- 23 measured by income; or
- 24 (B) two thousand dollars (\$2,000).
- 25 (7) Add an amount equal to the total capital gain portion of a lump
- 26 sum distribution (as defined in Section 402(e)(4)(D) of the
- 27 Internal Revenue Code) if the lump sum distribution is received
- 28 by the individual during the taxable year and if the capital gain
- 29 portion of the distribution is taxed in the manner provided in
- 30 Section 402 of the Internal Revenue Code.
- 31 (8) Subtract any amounts included in federal adjusted gross
- 32 income under Section 111 of the Internal Revenue Code as a
- 33 recovery of items previously deducted as an itemized deduction
- 34 from adjusted gross income.
- 35 (9) Subtract any amounts included in federal adjusted gross
- 36 income under the Internal Revenue Code which amounts were
- 37 received by the individual as supplemental railroad retirement
- 38 annuities under 45 U.S.C. 231 and which are not deductible under
- 39 subdivision (1).
- 40 (10) Add an amount equal to the deduction allowed under Section
- 41 221 of the Internal Revenue Code for married couples filing joint
- 42 returns if the taxable year began before January 1, 1987.
- 43 (11) Add an amount equal to the interest excluded from federal
- 44 gross income by the individual for the taxable year under Section
- 45 128 of the Internal Revenue Code if the taxable year began before
- 46 January 1, 1985.
- 47 (12) Subtract an amount equal to the amount of federal Social

Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004 **or 2005**, the amount determined under subsection (f); and

(ii) beginning after December 31, ~~2004~~, **2005**, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(21) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service

in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(22) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal

1 income tax purposes.

2 (c) In the case of life insurance companies (as defined in Section  
3 816(a) of the Internal Revenue Code) that are organized under Indiana  
4 law, the same as "life insurance company taxable income" (as defined  
5 in Section 801 of the Internal Revenue Code), adjusted as follows:

6 (1) Subtract income that is exempt from taxation under this article  
7 by the Constitution and statutes of the United States.

8 (2) Add an amount equal to any deduction allowed or allowable  
9 under Section 170 of the Internal Revenue Code.

10 (3) Add an amount equal to a deduction allowed or allowable  
11 under Section 805 or Section 831(c) of the Internal Revenue Code  
12 for taxes based on or measured by income and levied at the state  
13 level by any state.

14 (4) Subtract an amount equal to the amount included in the  
15 company's taxable income under Section 78 of the Internal  
16 Revenue Code.

17 (5) Add or subtract the amount necessary to make the adjusted  
18 gross income of any taxpayer that owns property for which bonus  
19 depreciation was allowed in the current taxable year or in an  
20 earlier taxable year equal to the amount of adjusted gross income  
21 that would have been computed had an election not been made  
22 under Section 168(k) of the Internal Revenue Code to apply bonus  
23 depreciation to the property in the year that it was placed in  
24 service.

25 (6) Add an amount equal to any deduction allowed under Section  
26 172 or Section 810 of the Internal Revenue Code.

27 (7) Add or subtract the amount necessary to make the adjusted  
28 gross income of any taxpayer that placed Section 179 property (as  
29 defined in Section 179 of the Internal Revenue Code) in service  
30 in the current taxable year or in an earlier taxable year equal to the  
31 amount of adjusted gross income that would have been computed  
32 had an election for federal income tax purposes not been made for  
33 the year in which the property was placed in service to take  
34 deductions under Section 179 of the Internal Revenue Code in a  
35 total amount exceeding twenty-five thousand dollars (\$25,000).

36 (8) Add an amount equal to the amount that a taxpayer claimed as  
37 a deduction for domestic production activities for the taxable year  
38 under Section 199 of the Internal Revenue Code for federal  
39 income tax purposes.

40 (d) In the case of insurance companies subject to tax under Section  
41 831 of the Internal Revenue Code and organized under Indiana law, the  
42 same as "taxable income" (as defined in Section 832 of the Internal  
43 Revenue Code), adjusted as follows:

44 (1) Subtract income that is exempt from taxation under this article  
45 by the Constitution and statutes of the United States.

46 (2) Add an amount equal to any deduction allowed or allowable  
47 under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.

(7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the Internal Revenue Code) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the Internal Revenue Code in a total amount exceeding twenty-five thousand dollars (\$25,000).

(8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the Internal Revenue Code for federal income tax purposes.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in

- 1 service.
- 2 (4) Add an amount equal to any deduction allowed under Section
- 3 172 of the Internal Revenue Code.
- 4 (5) Add or subtract the amount necessary to make the adjusted
- 5 gross income of any taxpayer that placed Section 179 property (as
- 6 defined in Section 179 of the Internal Revenue Code) in service
- 7 in the current taxable year or in an earlier taxable year equal to the
- 8 amount of adjusted gross income that would have been computed
- 9 had an election for federal income tax purposes not been made for
- 10 the year in which the property was placed in service to take
- 11 deductions under Section 179 of the Internal Revenue Code in a
- 12 total amount exceeding twenty-five thousand dollars (\$25,000).
- 13 (6) Add an amount equal to the amount that a taxpayer claimed as
- 14 a deduction for domestic production activities for the taxable year
- 15 under Section 199 of the Internal Revenue Code for federal
- 16 income tax purposes.
- 17 (f) This subsection applies only to the extent that an individual paid
- 18 property taxes in ~~2004~~ that were imposed for the March 1, 2002,
- 19 assessment date or the January 15, 2003, assessment date **in a taxable**
- 20 **year that includes any part of 2004 or 2005.** The maximum amount
- 21 of the deduction under subsection (a)(17) is equal to the amount
- 22 determined under STEP FIVE of the following formula:
- 23 STEP ONE: Determine the amount of property taxes that the
- 24 taxpayer paid after December 31, 2003, in the taxable year for
- 25 property taxes imposed for the March 1, 2002, assessment date
- 26 and the January 15, 2003, assessment date.
- 27 STEP TWO: For:
- 28 (A) **a taxable year that includes any part of 2004 and does**
- 29 **not include any part of 2005,** determine the amount of
- 30 property taxes that the taxpayer paid in the taxable year for the
- 31 March 1, 2003, assessment date and the January 15, 2004,
- 32 assessment date;
- 33 (B) **a taxable year that includes any part of 2004 and any**
- 34 **part of 2005, determine the amount of property taxes that**
- 35 **the taxpayer paid in the taxable year for the March 1,**
- 36 **2003, assessment date and the January 15, 2004,**
- 37 **assessment date;**
- 38 (C) **a taxable year beginning January 1, 2005, and ending**
- 39 **December 31, 2005, determine the amount of property**
- 40 **taxes that the taxpayer paid in the taxable year for the**
- 41 **March 1, 2004, assessment date and the January 15, 2005,**
- 42 **assessment date; or**
- 43 (D) **a taxable year that includes any part of 2005 and any**
- 44 **part of 2006, determine the amount of property taxes that**
- 45 **the taxpayer paid for the March 1, 2004, assessment date**
- 46 **and the January 15, 2005, assessment date in the time**
- 47 **period spanning the two (2) taxable years:**

- 1                   **(i) beginning on the first day of the immediately**  
 2                   **preceding taxable year that includes any part of 2004**  
 3                   **and any part of 2005; and**  
 4                   **(ii) ending on the final day of the taxable year.**  
 5           STEP THREE: Determine the result of the STEP ONE amount  
 6           divided by the STEP TWO amount.  
 7           STEP FOUR: Multiply the STEP THREE amount by two  
 8           thousand five hundred dollars (\$2,500).  
 9           STEP FIVE: Determine the sum of the STEP FOUR amount and  
 10          two thousand five hundred dollars (\$2,500)."  
 11          Page 3, between lines 7 and 8, begin a new paragraph and insert:  
 12          "SECTION 6. [EFFECTIVE JANUARY 1, 2005  
 13          (RETROACTIVE)]: **IC 6-3-1-3.5, as amended by this act, applies**  
 14          **only to taxable years beginning after December 31, 2004.**"  
 15          Renumber all SECTIONS consecutively.  
           (Reference is to ESB 259 as printed February 21, 2006.)

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Representative Aguilera